SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 452

JAMES BOVE,

Petitioner,

vs.

THE PEOPLE OF THE STATE OF NEW YORK

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK.

To the Honorable Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Your petitioner, James Bove, respectfully prays that a writ of certiorari issue to review the final order and judgment of the Court of Appeals of the State of New York

---

* References are to the folios of the record filed with this Court in *Joseph S. Fay, Petitioner,* v. *The People of the State of New York,* October Term, 1946, No. 377, docketed August 9th, 1946.

(fols. 3553-3561)*, rendered on July 23, 1946 (upon which a final judgment was entered in the office of the Clerk of the County of New York on the 8th day of August, 1946—fols. 3562-3569), which affirmed a judgment of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, entered on the 20th day of December, 1945 (fols. 3508-3513), affirming a judgment of the trial court, the Supreme Court of the State of New York, New York County, entered on the 5th day of April, 1945 (fols. 2-5, 81-82).

Opinions of the State Courts

The trial court rendered no opinion except the memorandum of Mr. Justice Munson on order denying defendants' motion for a bill of particulars (fols. 193a-195d), and the memorandum opinion of Mr. Justice Wasservogel granting a certificate of reasonable doubt (fols. 3475-3483).

The Appellate Division of the Supreme Court of the State of New York, First Judicial Department, rendered a *per curiam* opinion (fols. 3517-3531), two of the justices of said Court dissenting in an opinion (fols. 3532-3542).

The Court of Appeals of the State of New York rendered no opinion.

Jurisdiction

The jurisdiction of this Court is invoked under Section 237 of the Judicial Code, as amended (28 U. S. C. A. Sec. 344).

Questions Presented

The question presented is whether the trial and conviction of petitioner for the commission of a crime by a jury from which women and laborers were largely, systematically, and intentionally excluded, denied to petitioner his rights under

the Fourteenth Amendment to the Constitution of the United States.

Summary Statement of Matter Involved

The grounds urged for the granting of this petition are the same as the grounds urged for the granting of a petition for a writ of certiorari filed by Joseph S. Fay as petitioner against The People of the State of New York, No. 377, docketed on the 9th day of August, 1946 (October Term, 1946).

Your petitioner was a co-defendant with said Joseph S. Fay in the same criminal proceeding which resulted in the final order and judgment of the Court of Appeals of the State of New York (fols. 3553-3561), rendered on July 23rd, 1946.

Your petitioner was tried together with said petitioner, Joseph S. Fay. Your petitioner was also convicted and joined with the petitioner, Joseph S. Fay in all the appeals taken and described in the petition of Joseph S. Fay resulting in the final order and judgment of the Court of Appeals of the State of New York upon which a final judgment was entered in the office of the Clerk of the County of New York on the 8th day of August, 1946, which affirmed a judgment of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, entered on the 20th day of December, 1945 (fols. 3508-3513), which affirmed a judgment of the trial court, the Supreme Court of the State of New York, New York County, entered on the 5th day of April, 1945 (fols. 2-5, 81-82). The record in the above proceeding heretofore filed by the petitioner, Joseph S. Fay, is also the complete record of the trial of your petitioner.

Upon the trial of your petitioner and the petitioner, Joseph S. Fay at the Supreme Court of the State of New